



## **APPROPRIATIONS COMMITTEE Human Services Issues**

**Wednesday, March 1, 2023**

### **FUNDING FOR NURSING HOME QUALITY PROVISIONS**

My name is Jean Mills Aranha. I am a volunteer attorney for Connecticut Legal Services, a non-profit legal aid agency. I recently retired from its Elder Law Unit and I served on the Governor's 2020-21 Nursing Home and Assisted Living Oversight Working Group and its Staffing Subcommittee.

On behalf of Connecticut's Legal Aid Programs (Connecticut Legal Services, Greater Hartford Legal Aid and New Haven Legal Assistance Association) and our low-income elderly clients, who include the residents of nursing homes, I am submitting my testimony in support of increased funding for greater transparency, accountability and staffing in our nursing homes. All of these combined components will improve the quality of care for nursing home residents.

These issues are at the heart of what is wrong with our nursing homes today. Nursing home residents suffered disproportionately throughout the Covid pandemic and they continue to suffer today. They need help; we need to invest resources to assure quality care for some of our most vulnerable residents.

A number of current legislative proposals promise improvements to the quality of care of nursing home residents. Fully funding these proposals, including enforcement capabilities, is crucial to fulfilling those promises.

SB 989, AAC Nursing Homes, includes many of these proposals, as well as a requirement that notices of involuntary discharge be provided simultaneously to the Long Term Care Ombudsman. Failure to provide a copy to the Ombudsman will invalidate any notice given to the resident. This provision assures that someone other than the resident, who may not understand the notice or perceive its significance, is notified of the proposed transfer. We also believe that the resident's discharge plan should also be provided to the Long Term Care Ombudsman at the same time that they receive the discharge notice.

A requirement for transparency in cost reporting by nursing homes is also proposed in SB 989, with posting in plain language that reveals the role of all related parties to the nursing home. Fines will be assessed for failure to comply to assure accountability.

Transparency in ownership is addressed by requiring the disclosure of any private equity fund that owns any portion of the nursing home business during licensing, along with financial information about any such fund. There has been a significant increase in private equity ownership of nursing homes nationwide. Transparency about their interests in Connecticut's nursing homes is vital to understanding whether our nursing home dollars are being used for care or profits.

Additionally, each nursing home must disclose a profit and loss statement from each related party that has received **any amount** of income from such facility for goods, services and fees. Current law requires such reporting only if the income allocated to a related party was fifty thousand dollars or more.

In addition to these transparency and accountability provisions, SB 989 mandates a minimum staffing level of 4.1 hours of care per resident per day, and increases the amount of social workers and recreation staff. These are vital provisions and we urge you to fund them fully.

Inadequate staffing in nursing homes is a longstanding problem. In 2000, the federal Department of Health and Human Services (now CMS) issued a report to Congress after nearly ten years of studying the relationship between nursing staff levels and quality of care for residents. Facilities staffing at lower levels had residents with increased risk of bedsores, malnutrition, abnormal weight loss, and preventable hospitalizations. **The study found that a minimum of 4.1 hours of nursing care per resident, per day, was needed to meet the federal quality standards at that time.**<sup>1</sup> Resident acuity has only increased during the last 20 years, so a similar study today would probably find a higher necessary minimum.

We know that nursing homes with more staffing had better outcomes during the pandemic. A Mathematica report done in Connecticut found that “[n]ursing homes with higher staffing ratings had significantly fewer cases and deaths per licensed bed.”<sup>2</sup> But staffing levels are not important just during a pandemic. Many studies have found that staffing levels are too low in many nursing homes.<sup>3</sup> The National Consumer Voice for Quality Long-Term Care has long advocated for increased staffing, to prevent pressure ulcers, infections, malnutrition, dehydration, injuries from falls, preventable hospitalizations and death. Good nurses and aides can’t provide quality care if there

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<sup>1</sup> U.S. Centers for Medicare and Medicaid Services, Abt Associates Inc. *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Report to Congress: Phase II Final*. Baltimore, MD: CMS; 2001.

<sup>2</sup> *A Study of the COVID-10 Outbreak and Response in Connecticut Long-Term Care Facilities*, p.19, Mathematica Final Report, September 30, 2020, DPH #2021-0041.

<sup>3</sup> See, for example, *The Need for Higher Minimum Staffing Standards in U.S. Nursing Homes*, Harrington, C., et al., Health Services Insights 2016:9 13-19 doi:10.4137/HIS.S38994.

aren't enough of them.<sup>4</sup> Connecticut's legal services programs have supported raising nursing home staffing levels for many years for the same reasons.

The pandemic did not cause the staffing deficiencies in care in nursing homes, although it exacerbated them. Now that our attention has been focused on the needs of these residents, and after they have suffered the highest proportion of illness and death, we owe it to them to make improvements in our long-term care facility systems for the future. A minimum of 4.1 hours of care per resident per day is the least that should be considered, given that this minimum was established over 20 years ago, and backed by further study since. It also offers potential cost savings, as unnecessary hospitalizations can be reduced by better care.

The staffing proposal addresses social work and recreational staff as well as nursing staff; they are also critical to a resident's well-being. The recreational staff decrease that was implemented last year was the result of a drafting error. The modification in this year's proposal calling for higher recreational staff than was in place prior to January 1, 2022, is important to correct this error, and the money to fund additional social work and recreational staff is needed.

The staffing bill makes the failure to comply with staffing requirements a class B violation. Any civil penalty imposed for such failures must be paid from management fees or funds assigned for administrative and general costs. This will assure that the nursing home itself will pay the fine, rather than using dollars intended for resident care.

These proposals provide an important opportunity to look clearly at nursing homes and make major changes to protect and care for the residents living in them. It is only through transparency and accountability that we can see where the very significant Medicaid dollars we spend each year really go. We need to be sure it is to the care of residents.

**Funding for the implementation and enforcement of these proposals is vital to protect nursing home residents.**

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<sup>4</sup> <https://theconsumervoice.org/betterstaffing>